

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Stephen R. Erkins,	:	
	:	
Plaintiff(s),	:	
	:	Case Number: 1:09cv59
vs.	:	
	:	Chief Judge Susan J. Dlott
Postal Service (U.S.),	:	
	:	
Defendant(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge J. Gregory Wehrman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on November 15, 2010 a Report and Recommendation (Doc. 51). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 56) and defendant filed a response to the objections (Doc. 58).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, it is ORDERED that defendant's motion for summary judgment (Doc. 39) is **GRANTED**. Plaintiff's motion for nunc pro tunc (Doc. 47) is **DENIED**.

The Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of this Order will not be taken in good faith and therefore **DENIES** plaintiff leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United*

States Postal Serv., F.3d 274, 277 (6th Cir. 1997).

This case is hereby **DISMISSED** with prejudice from the active docket.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court